

James H. Lister, ABA #1611111
Brian V. Gerd, ABA #1810097
David K. Gross, ABA # 9611065
Birch Horton Bittner & Cherot
1150 Connecticut Avenue, NW, Suite 350
Washington, DC 20036-4142
jlist@bhb.com
bgerd@bhb.com
dgross@bhb.com
Telephone 202.659.5800
Facsimile 202.659-1027

Counsel for Defendant-Intervenor AIDEA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

STATE OF WASHINGTON, et al.,

Plaintiffs,

vs.

DOUG BURGUM, in his official capacity as
Secretary of the United States Department of the
Interior, et al.,

Defendants,

and

NORTH SLOPE BOROUGH, et al.,

Intervenor-Defendants.

Case No.: 3:20-cv-00224-SLG

**DEFENDANT-INTERVENORS' RESPONSE TO FEDERAL DEFENDANTS'
AND PLAINTIFFS' JOINT STATUS REPORT FILED May 9, 2025**

Defendant-Intervenor Alaska Industrial Development and Export Authority ("AIDEA"), joined by Defendant-Intervenors State of Alaska, North Slope Borough, Alaska Oil & Gas Association, and American Petroleum Institution, respectfully submits this Response to the Joint Status Report filed on May 9, 2025 by Federal Defendants

State Of Washington et al., v. Burgum
AIDEA RESPONSE TO STATUS REPORT

Case No. 3:20-cv-00224-SLG
1 OF 4

Department of Interior, et al. (“Federal Defendants” or “DOI”) and Plaintiffs State of Washington, et al. (“Plaintiffs”) in this stayed case. Plaintiffs filed this case in late 2020 to challenge the Federal Defendants’ August, 2020 Record of Decision (“2020 ROD”) setting terms and conditions for the oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge (“ANWR”) directed by Pub. Law No. 115-97 § 20001. After Plaintiffs filed their Complaint challenging the 2020 ROD (DE 1), the Federal Defendants on January 13, 2021 issued seven oil and gas leases to AIDEA for the Coastal Plain.¹ After the Biden Administration took office on January 20, 2020 and announced its intent to reconsider the Coastal Plain program, this Court in February, 2021 granted an unopposed motion to stay this case (DE 89). The Federal Defendants then issued a new Record of Decision in November, 2024 (“2024 ROD”) regarding terms and conditions for the Coastal Plain program. The 2024 ROD substantially differed from the 2020 Record of Decision (“2020 ROD”). As Federal Defendants explain, the 2024 ROD superseded the 2020 ROD. Joint Status Report at 1 (DE 164). Additionally, Federal Defendants in June, 2021 suspended and in September, 2023 cancelled AIDEA’s leases.

In January, 2025, the Trump Administration took office and announced an intent to reconsider the 2024 ROD. On March 26, 2025, in Case No. 3:24-cv-00051-SLG, this Court vacated as unlawful Federal Defendants’ September, 2023 decision to cancel AIDEA’s leases. The judicial vacatur of that lease cancellation decision restored the status quo in

¹ These additional Defendant-Intervenors have authorized undersigned counsel for AIDEA to state that they join in this Response.

effect immediately before that vacated decision, which was that the leases existed in suspended status, under the June, 2021 lease suspension order.²

In their Status Report filed on May 9, 2025, Federal Defendants advise the Court that they will conduct proceedings to reconsider, revise, or reverse the 2024 ROD and expect to issue a new ROD in the third quarter of 2025. *See* Joiny Status Report at 3. Federal Defendants agree that this Court's vacatur of the lease cancellation restored AIDEA's leases to suspended status. *Id.* Federal Defendants state that they will address the status of AIDEA's leases along with issuing the new ROD. *Id.*

AIDEA expects that the new ROD will respond to the concerns raised by Plaintiffs in their lawsuit regarding the now-suspended 2020 ROD, revise leasing program terms, and address the terms under which AIDEA's now-suspended leases are reinstated. AIDEA does not agree with any suggestion in Federal Defendants' status report that Federal Defendants have discretion to keep AIDEA's leases in suspended status indefinitely. Because Plaintiffs are challenging an agency action (the 2020 ROD) that has been superseded by the 2024 ROD AIDEA's leases are in fact suspended, and Federal Defendants are expected to replace the 2024 ROD and further address AIDEA's leases in just a few months, AIDEA agrees with Federal Defendants and Plaintiffs (in this case) that the stay of the case should continue.

² *See* 5 U.S.C. § 706(2); *Keystone-Conemaugh Projects, LLC v. U.S. E.P.A.*, 100 F.4th 434, 446 (3rd Cir. 2024).

DATED this 9th day of May, 2025.

BIRCH HORTON BITTNER & CHEROT

Attorneys for Defendant-Intervenor
Alaska Industrial Development and Export Authority

By: /s/ James H. Lister
James H. Lister, ABA #16111115
Brian V. Gerd, ABA #1810097
David K. Gross, ABA #9611065

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2025 a copy of the foregoing was served by electronic means on all counsel of record by the Court's CM/ECF system.

/s/ James H. Lister
James H. Lister